



# **Office of the Information Commissioner of Canada**

**2012–2013**

**Report on Plans and Priorities**

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of Canada

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of Canada



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## Table of Contents

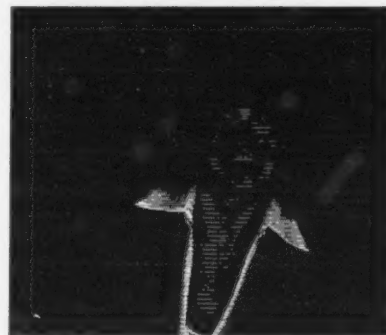
Message from the Information Commissioner of Canada.....	1
Section I: Organizational Overview.....	3
Raison d'être .....	3
Responsibilities .....	3
Strategic Outcome and Program Activities .....	4
Organizational Priorities .....	4
Risk Analysis .....	10
Planning Summary .....	15
Expenditure Profile .....	17
Estimates by Vote .....	17
Section II: Analysis of Program Activities .....	18
Strategic Outcome .....	18
Compliance with Access to Information Obligations .....	18
Planning Highlights.....	19
Internal Services.....	24
Planning Highlights.....	24
Section III: Supplementary Information.....	30
Financial Highlights .....	30
Future-Oriented Financial Statements .....	30
List of Supplementary Information Tables.....	31
Section IV: Other Items of Interest .....	32
Organizational Contact Information.....	32
Official Initiatives to Reform the ATI Act, 1977-2011 .....	32

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## Message from the Information Commissioner of Canada

I am pleased to present the Office of the Information Commissioner's *Report on Plans and Priorities* for 2012–2013. This report sets out our continuous efforts and initiatives to effectively defend Canadians' right of access to public sector information and to facilitate greater government transparency and accountability.



Three years ago, strategically and aggressively, my Office introduced a new way of doing business. We undertook to eliminate the historical backlog of complaints that was preventing us to deliver timely service to Canadians. Processes were streamlined to quickly resolve straightforward administrative complaints so that investigators could focus on the more challenging cases about access refusal. This led to a substantial dent in our inventory.

We have now intensified our efforts to address the complex and often voluminous nature of refusal cases. Our portfolio approach to investigations and our process for complaints involving sensitive national security issues have proven their worth. We will hone on these strategies to become more efficient in resolving complex and priority cases. To sustain these efforts, we must also ensure a sound work environment with the proper tools, training, service standards and controls.

However, the path forward is ripe with challenges. Among those are the increased financial pressures stemming from the reductions to our appropriations announced in Budget 2012. Just as important is the systemic impact that government-wide budget cuts and downsizing could have on the access regime as a whole.

In my view, our overarching priority to increase efficiencies in investigating and resolving complaints while maintaining high quality standards is now seriously at risk. This in turn will have a negative impact on Canadians' right of access. We will need to closely review our plans and activities accordingly.

This year, as institutions strive to increase efficiencies, the thirtieth anniversary of the *Access to Information Act* provides a timely opportunity to explore collectively how reform initiatives would bring about a more efficient access regime. The long-overdue modernization of the legislation could help bring the regime into the digital age and up to par with the most progressive models of transparency.

Today, nations around the world develop or refine open government initiatives. Openness is more than just open data. Without access to information, open government is just about the information that institutions volunteer to release. A modern, effective access to information regime would provide Canadians with the means to access the information that they request as well as the proper check and balance that our democracy deserves.

## Section I: Organizational Overview

### Raison d'être

The Office of the Information Commissioner of Canada (OIC) ensures that federal institutions respect the rights that the *Access to Information Act*<sup>1</sup> confers to information requesters. Protecting and advancing the right of access to public sector information ultimately enhances the transparency and accountability of the federal government.

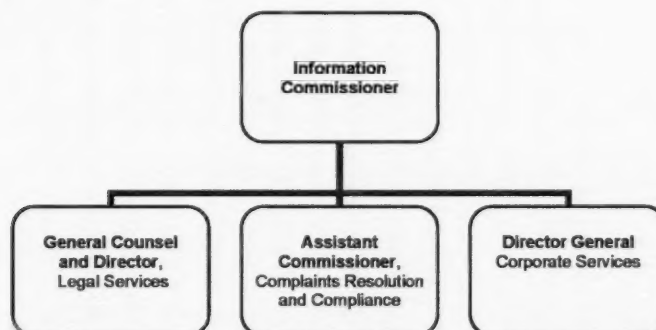
### Responsibilities

The OIC is an independent public body set up in 1983 under the *Access to Information Act*. Our mission is to conduct **efficient, fair and confidential investigations** into complaints about federal institutions' handling of access to information requests. The goal is to maximize compliance with the Act while fostering disclosure of public sector information using the full range of tools, activities and powers at the Commissioner's disposal, from information and mediation to persuasion and litigation, where required.<sup>2</sup>

We use mediation and persuasion to resolve complaints. In doing so, we give complainants, heads of federal institutions and all third parties affected by complaints a reasonable opportunity to make representations. We encourage institutions to disclose information as a matter of course and to respect Canadians' rights to request and receive information, in the name of transparency and accountability. We bring cases to the Federal Court to ensure that the Act is properly applied and interpreted with a view to maximizing disclosure of information.

We also support the Information Commissioner in her **advisory role to Parliament** and parliamentary committees on all matters pertaining to access to information. We actively make the case for greater freedom of information in Canada through targeted initiatives such as *Right to Know Week*,<sup>3</sup> and ongoing dialogue with Canadians, Parliament and federal institutions.

The following diagram shows the OIC's organizational structure.



**Legal Services** represents the Commissioner in court and provides legal advice on investigations, legislative issues and administrative matters. It closely monitors the range of cases having a potential impact on our mandate and on access to information in general. Legal Services also assists investigators by providing them with up-to-date and customized reference tools on the evolving technicalities of the case law.

The **Complaints Resolution and Compliance Branch** investigates individual complaints about the processing of access requests, conducts dispute resolution activities and makes formal recommendations to institutions, as required. It also assesses federal institutions' compliance with their obligations, and carries out systemic investigations and analysis.

**Corporate Services** provides strategic and corporate leadership in planning and reporting, communications, human resources and financial management, security and administrative services, internal audit as well as information management and technology. It conducts external relations with a wide range of stakeholders, notably Parliament, government and representatives of the media. It is also responsible for managing our access to information and privacy function.

### Strategic Outcome and Program Activities

<i>Strategic Outcome</i>	<i>Program Activities</i>
Individuals' rights under the <i>Access to Information Act</i> are safeguarded.	<ul style="list-style-type: none"> <li>• Compliance with access to information obligations</li> <li>• Internal services</li> </ul>

### Organizational Priorities

Priority	Type	Program Activity
<b>Exemplary service delivery to Canadians:</b> Increase efficiencies in investigating and resolving all types of complaints while maintaining high quality standards.	Previously committed to	Compliance

Type is defined as follows: **previously committed to**—committed to in the first or second fiscal year prior to the subject year of the report; **ongoing**—committed to at least three fiscal years prior to the subject year of the report; and **new**—newly committed to in the reporting year of the *Report on Plans and Priorities* or *Departmental Performance Report*.

## Description

### Why is it a priority?

Just as Canadians have the right to obtain timely access to government information, complainants have the right to obtain a timely resolution of complaints they have filed with the Information Commissioner. Effective and timely investigative performance is the overarching goal behind the business model the OIC started implementing in 2008. Since then, the streamlining of our business processes, a new case management system, the close monitoring of inventory and performance metrics, two internal audits as well as refined strategies to manage our caseload have significantly improved our operations. We have reduced our inventory of complaints by 27 percent since the end of 2008–2009. We are now intensifying our efforts to achieve a manageable carry-over of 500 cases at year end by 2015–2016.

### Plans for meeting the priority

#### *Case management strategies*

- Expand the use of the portfolio approach—whereby we investigate large groups of similar complaints—and refine it according to institutions’ business lines, exemptions invoked and subject matters.
- Continue with the implementation and assessment of our strategy to investigate access refusals involving sensitive issues of national security, international affairs and defence.
- Apply and assess a similar strategy to complete priority investigations within six months.
- For unreasonable delays and extensions, continue with our strategy to swiftly formalize investigation reports provided to heads of institutions.
- Consolidate gains from improved business processes to achieve our goal of 85 percent of administrative complaints completed within three months.
- Maintain an open dialogue between the OIC and institutions at upper management levels to communicate expectations and promote the timely resolution of complaints.

#### *Tools, systems, processes and standards*

- Provide investigators with customized training, mentoring and tools to assist with refusal complaints.
- Integrate our case management systems for investigations and litigation matters.
- Develop standard processes to facilitate the coordination between the investigative and legal branches.
- Establish service standards for investigating access refusals and strengthen accountability for results.

Priority	Type	Program Activity
<b>Timeliness of responses to access requests:</b> Complete our diagnostic of delay-related issues and follow up on the progress achieved by institutions.	Previously committed to	Compliance

### Description

#### Why is it a priority?

Responding to access requests in a timely fashion is one of the cornerstones of the *Access to Information Act*. In 2009, we undertook a three-year exercise to assess and document the root causes of delay-related issues.<sup>4</sup> The methodology combined findings from investigations of complaints, performance assessments of select groups of institutions and in-depth analysis of systemic or recurrent issues. Our objective was to provide evidence-based advice to Parliament and assist central agencies and individual institutions in implementing effective remedies. The exercise was also intended to encourage institutions to proactively seek greater compliance with access to information obligations. In 2012–2013, we will complete our diagnostic and examine the extent to which recommendations for improvement have been implemented.

#### Plans for meeting the priority

- Produce and table report cards on 18 institutions that obtained poor access to information results or were considered at risk based on their 2008–2009 performance.
- Follow up on the progress of the Canadian Broadcasting Corporation and Canada Post Corporation in relation to the assessment of their 2009–2010 performance.
- Complete and table the report of our systemic investigation into the causes and sources of delay in the processing of access to information requests. This investigation is examining delays resulting from mandatory consultations as well as interference.
- Refine our methodology for the use and reporting of extension notices submitted to the Commissioner pursuant to subsection 9(2) of the Act involving extensions of more than 30 days.

Priority	Type	Program Activity
<b>Expertise for a modern access to information regime:</b> Continue to promote the modernization of access to information as a key component of the broader concept of open government.	Previously committed to	Legal and Internal Services <sup>5</sup>
<b>Description</b>		
<p><b>Why is it a priority?</b></p> <p>Open government initiatives and an obsolete access regime tend to obfuscate the fact that access to information remains the primary bulwark and key measure of government openness and transparency. Over time, numerous stakeholders have developed agendas for reform, but the legislation has remained essentially intact. In 2011, the Speech from the Throne and several other developments gave impetus to open government at the federal level. In his letter to U.S. Secretary of State Hillary Clinton on September 19, 2011, Minister Baird conveyed Canada's intent to join the international Open Government Partnership. A common expectation among stakeholders is that legislative reform and improved compliance with access to information obligations must be part of Canada's Open Government action plan. In 2012–2013, we will provide informed input on the necessary amendments to the <i>Access to Information Act</i> in light of its thirtieth anniversary.</p> <p><b>Plans for meeting the priority</b></p> <ul style="list-style-type: none"> <li>• Conduct a cross-jurisdictional review of the access to information legislation informed by stakeholder consultations.</li> <li>• Make representations before the House of Commons Standing Committee on Access to Information, Privacy and Ethics and other parliamentary committees, as requested.</li> </ul>		

Priority	Type	Program Activity
<b>An exceptional workplace:</b> Implement our Integrated HR-Business Plan with a focus on developing, recruiting and retaining talent.	Previously committed to	Internal Services
<b>Description</b>		
<p><b>Why is it a priority?</b></p> <p>Creating and maintaining an exceptional workplace is a key objective of our 2011–2014 Strategic Plan.<sup>6</sup> Talent management will enable us to develop, attract and retain individuals with the right skills for the job. We are also strengthening our enabling infrastructure as we improve how we work, where we work and the tools with which we work. In doing so, we will embrace new technologies, foster collaboration and innovation, and facilitate information and knowledge management. To the extent that our workplace builds upon and reflects the common values that we share as individuals and public servants, our service delivery and interactions with our various constituencies will also benefit.</p> <p><b>Plans for meeting the priority</b></p> <p><i><b>Talent management</b></i></p> <ul style="list-style-type: none"> <li>• Formalize our corporate talent management program—including performance management, employee development, succession planning and knowledge transfer—taking into account budgetary restraints and business requirements across the organization.</li> </ul> <p><i><b>Enabling infrastructure</b></i></p> <ul style="list-style-type: none"> <li>• Consolidate our technology and information management infrastructure in accordance with our 2009–2014 IM/IT renewal strategy.</li> <li>• Initiate the development of a comprehensive knowledge management system with the implementation of our information management framework.</li> <li>• Develop a strategy to guide and facilitate various institutional and professional Web activities and initiatives, from research to collaboration.</li> <li>• Plan for our office relocation, scheduled for the summer of 2013, and identify a source of funding.</li> </ul> <p><i><b>Values and ethics</b></i></p> <ul style="list-style-type: none"> <li>• Finalize our organizational code of conduct, which amalgamates OIC core values and the Code for the Public Sector, and includes guidelines on conflict of interest and post-employment.</li> </ul> <p><i><b>Public Service Employee Survey</b></i></p> <ul style="list-style-type: none"> <li>• Develop and implement an action plan to address findings from the September 2011 Public Service Employee Survey.</li> </ul>		

Priority	Type	Program Activity
<b>Governance:</b> Ensure and demonstrate both fiscal responsibility and responsible stewardship.	Previously committed to	Compliance and Internal Services
<b>Description</b>		
<p><b>Why is it a priority?</b></p> <p>In periods of fiscal restraint, public sector institutions must rethink their program activities and service delivery in terms of results, efficiency, effectiveness and cost savings opportunities. As “back-office functions,” internal services are often the most vulnerable to budget restrictions. Yet, it is in these very moments that their contributions are the most valuable – to inform and engage, to measure and assess performance, to lead in the quest for greater efficiencies, to mitigate risks, and to ensure continued compliance with all applicable laws and policies. Parliament and Canadians seek greater reassurance of the prudent stewardship of public funds, the safeguarding of public assets, and the efficient use of public resources. To this end, they expect reliable reporting of how public funds achieve results for Canada and Canadians.</p> <p>To meet these expectations, we will further strengthen and document our corporate system of internal control in 2012–2013. We will fine-tune and expand our performance measurement framework across the organization. We will also take part in shared services that enable us to reduce risks and costs while improving service delivery.</p> <p><b>Plans for meeting the priority</b></p> <p><i>Policy compliance</i></p> <ul style="list-style-type: none"> <li>• Update our corporate risk assessment and revise our risk-based audit plan accordingly.</li> <li>• Continue to strengthen and document our system of internal control, particularly with respect to staffing, security and financial management.</li> <li>• Finalize the implementation of security initiatives in compliance with the Policy on Government Security.</li> <li>• Ensure continued compliance with Treasury Board policy instruments developed or renewed as part of policy suite integrity.</li> </ul> <p><i>Performance measurement and evaluation</i></p> <ul style="list-style-type: none"> <li>• Establish baseline service standards and performance measures for internal services.</li> <li>• Introduce an evaluation function for the purpose of creating a comprehensive and reliable base of evidence for program improvement, policy development, expenditure management and public reporting.</li> </ul> <p><i>Shared services</i></p> <ul style="list-style-type: none"> <li>• Obtain human resources services as part of a shared services delivery platform.</li> <li>• Explore other shared services opportunities.</li> </ul>		

## **Risk Analysis**

The strategic planning exercise<sup>7</sup> conducted in 2010 and the subsequent update of our risk-based audit plan<sup>8</sup> provided opportunities to review our business risks and devise appropriate responses or mitigation strategies. These strategies as well as ongoing developments have since substantially modified our risk profile. The following section summarizes our most important risks, their causes, potential impact or outcomes, as well as mitigation strategies that are already in place or require implementation.

### **Financial Resources**

The operating budget freeze introduced with Budget 2010 has removed the limited financial flexibility the Office previously had. Our year-end lapse of funds was 1.7 percent and 1.2 percent of authorities in the last two years. In 2010–2011, we had to request authority to access \$400K in additional funding to accommodate the increase in workload due to litigation and complex cases.

Our program and expenditure review conducted in the context of the government's Deficit Reduction Action Plan indicates that any reductions to our existing appropriations would significantly impact program results.<sup>9</sup> Such reductions would compromise our ability to deal with the demands of our current inventory and to meet other corporate obligations, such as policy compliance. Any unexpected event that would impact our workload would create significant financial pressures on the organization.

We also face uncertainty due to the fact that we have to relocate our offices in 2013. Preliminary estimates from Public Works and Government Services Canada indicate that the cost could be as high as \$3M. We have yet to secure a source of funding.

### **Workload and Project Management**

Our workload is considerably influenced by the way in which federal institutions handle information requests and by the number, complexity and priority of complaints subsequently made to the Commissioner. The pace and outcome of complex or systemic investigations depend on various factors, not the least of which is cooperation from institutions, complainants and witnesses. Court decisions on access-related cases can also impact our workload. There is a risk that significant and unexpected fluctuations in workload may prevent us from meeting our targets and other obligations in a timely fashion.

Treasury Board Secretariat (TBS) statistics for 2010–2011 indicate an increase of 18 percent in the number of access requests received by institutions.<sup>10</sup> Historically, 5–6 percent of requests generate complaints to our Office. If this trend materializes, we could be faced with an influx of

2,000 to 2,500 new complaints in 2012–2013. Worth noting, several of the top 10 institutions to receive access requests are also among the top 10 institutions generating complaints. Hence, a potential risk in terms of increased workload.

This risk is now compounded by the fact that institutions, in times of restraint, tend to cut in their internal services, which include Access to Information and Privacy (ATIP) programs. The consequences of such cuts could include failure to meet legal requirements, declining performance and an increase in complaints.

Moreover, our inventory of complaints has changed substantially in recent years. In 2007–2008, it included a near equal share of administrative and refusal complaints. The former pertain to delays, extensions, fees or similar issues. Refusal complaints, on the other hand, involve the application or interpretation of exemptions to the right of access, including exemptions for information dealing with national security and other sensitive matters.

Currently, 88 percent of our workload consists of refusal complaints. This results from increased efficiencies in resolving administrative complaints as well as a higher proportion of new refusal complaints. We also note a measurable increase in complexity among the most recent cases investigated.

By nature, investigations of refusal complaints tend to be more complex or contentious and therefore may take longer to complete. In some instances, they may require the recourse to the Commissioner's formal investigative powers (e.g. issuing subpoenas and conducting examinations under oath). Refusal complaints may also give rise to proceedings before the Federal Court to clarify the interpretation and application of the Act or ensure compliance with the legislation.

Litigation can affect our workload by putting some investigations on hold for an extended period of time. For example, the Federal Court of Appeal rendered a decision last year regarding the application of a provision introduced with the *Federal Accountability Act*. This decision had the effect of reactivating 174 files that had been on hold for approximately two years.

To address our workload risks and operational requirements, we introduced strategies to deal specifically with complex and priority cases. An internal audit conducted in the spring of 2011 led to improvements in file documentation and environmental scanning to support efficient and timely case management.<sup>11</sup> In 2012–2013, the introduction of an evaluation function will help mitigate risks of not achieving established objectives by providing additional performance feedback. We will also closely monitor the impact of deficit reduction plans on ATIP operations across the system.

## **Litigation**

The OIC must deal on an ongoing basis with the likelihood of litigation relating to institutions' non-compliance with the Act and court decisions. The higher percentage of refusal cases in our inventory has increased the risks of litigation. To mitigate those risks, we resort to various means under our "compliance continuum," including using investigative tools that reduce the demand on institutions, early involvement of Legal Services, as well as senior management's intervention to communicate expectations and maintain a climate of cooperation.<sup>12</sup>

In May 2011, the Supreme Court of Canada issued its decision regarding access to records located in the Prime Minister's and Ministers' offices. The Court set out a two-step test to determine if such records are under the control of the government institution. However, the absence of a clear-cut distinction between ministerial and departmental records could lead to challenging and time-consuming investigations, possibly requiring the use of the Commissioner's formal powers. It could also lead to increased court activity, with a concomitant increase in the time and resources needed to effectively prepare and present the Commissioner's arguments.

The same can be said about some of the new exclusions and exemptions brought in under the *Federal Accountability Act*. These could lead more institutions and requesters to test the limits of these provisions before the courts.

In 2011–2012, we augmented internal legal capacity to assist with formal investigations and litigation at all court levels. This will contribute to reducing our reliance on costly external professional services. We have also undertaken a review of the access to information legislation to identify and document shortcomings, including issues that increase the risk of litigation.

## **Human Resources and Knowledge Management**

There are two main types of risks associated with human resources (HR). There is the risk that the number of resources, or capacity, may not be sufficient to meet business requirements. There is also the risk that the level of skills and experience, or capability, may not be adequate, given the nature or evolution of those requirements.

In 2009 and 2010, the OIC engaged in a number of staffing actions to fill all required investigative positions. Since then, recruitment strategies under the *2009–2014 Integrated HR Plan* have proven effective in minimizing the impact of ongoing staff turnover, due notably to retirement and the high demand for access professionals. However, given the small size of the organization, there is a risk that productivity may be substantially hampered by temporary leaves

due to illness or family obligations, for example. The relocation of our offices in 2013 also presents risks for productivity and human resources retention.

With respect to HR capability, the specificity of our core program and the high percentage of new recruits present a significant challenge. OIC demographics show that in January 2011, 57 percent of investigators had fewer than three years of experience among us. Moreover, nearly one third of investigators and several directors will soon be eligible to retire.

Compounding these risks is the fact that corporate memory and integrated skills rest with a small number of individuals who often occupy unique, managerial or multifunctional positions.

As a critical mitigation strategy, talent management enables us to develop and maintain expertise in the particulars of our investigative function. We must also develop succession plans and adequate processes across the organization to ensure smooth transition and transfer knowledge in the event of turnover.

### **Information Management and Technology**

As we start year 4 of our five-year renewal strategy for information management and information technology (IM/IT), the focus is on infrastructure consolidation and network hardening. Consolidation offers a means to achieve significant cost savings while improving performance and supporting future increases in capacity.

In light of a risk assessment conducted in 2010, network hardening will address security vulnerabilities through the implementation of software updates, new security systems, and better configurations and operation policies. These measures will help ensure that our technology complies with the Policy on Government Security and is consistent with government-wide direction and guidance regarding communication and information management.

As we prepare to relocate in a Workplace 2.0 environment, we also need to complete the development and implementation of our information management framework. This framework must allow us, in particular, to fully meet the objective of the government's Directive on Recordkeeping.

Despite many potential benefits, the use of Web 2.0 presents a number of risks and challenges. For example, it may be difficult to reconcile certain policy obligations (e.g. equal use of official languages) with technological constraints (e.g. per-message characters). Official information might be misused or shared without the proper context, possibly leading to misinterpretation or negative perceptions. There are also challenges in protecting the privacy of personnel and citizens who are interacting online. In addition to mitigating these risks, we need to comply with

new standards designed to ensure the accessibility of websites and the usability of Web information, tools and services.

Given the number and complexity of projects involved, there is a risk of not being fully compliant with all IM/IT-related policy instruments by the set timelines. As the Office is expected to demonstrate exemplary practices, such outcomes could also substantially compromise our reputation.

### **Accountability and Policy Compliance**

Similar to other federal institutions, the OIC is subject to a number of government policies and regulations. Due to ongoing changes, these instruments need to be constantly monitored, and the adequacy of internal controls must be re-assessed accordingly. This creates a challenge for a small organization like the OIC.

An additional challenge stems from the fact that the Commissioner, as an independent Agent of Parliament, is solely responsible for monitoring and ensuring compliance with certain policy provisions, as appropriate. In some areas, the Commissioner's accountability for compliance has been heightened with the Accounting Officer role and the obligation to appear before parliamentary committees, when requested.

In 2012–2013, we will concentrate on operationalizing key controls pertaining to human resources management. We have undertaken discussions to procure human resources services from the Shared Services Unit of Public Works and Government Services Canada. We will also work with the Public Service Commission to implement, as appropriate, any recommendations stemming from a staffing audit initiated at the end of 2011–2012.

## Planning Summary

Since 2008, we have addressed resource shortfalls, whenever possible, through internal reallocations and reorganizations. We have continuously improved business processes, which have led to significant operational efficiencies. The benefits have been reinvested to strengthen our program delivery, to respond to unexpected changes in workload, and to manage within our funding envelope.

Following the operating budget freeze introduced in 2010, we developed a strategy to minimize our reliance on our Operating and Maintenance (O&M) budget to cover salary increases from signed collective agreements. The strategy ensured us sufficient O&M funds to cover both fixed operating costs and program-related costs.

In the context of the government's Deficit Reduction Action Plan, we reviewed our program, operations and internal services to assess results, opportunities for greater efficiency and effectiveness, and potential cost savings.<sup>13</sup> The review indicated that any reductions to our appropriations would have significant adverse impact on program results. Reductions would erode the benefits and efficiency gains from previous investments in our program and compromise its future sustainability.

We also conducted a four-year comparative analysis of operating expenditures with other departments of similar size. Results showed that the average O&M cost per OIC FTE is at the lower end of the range and will be further reduced by 2014–2015. We anticipate that our O&M expenditures will decrease by 50 percent compared to 2010–2011.

The Financial Resources table below provides the total planned spending (including employee benefit plans) for the Office of the Information Commissioner for the next three fiscal years. Variations in year-over-year are mainly attributable to information management and information technology (IM/IT) initiatives. These figures do not reflect reductions to our funding envelope introduced with Budget 2012.

### Financial Resources (\$ thousands)

2012–2013	2013–2014	2014–2015
11,708	11,760	11,493

The next table provides a summary of the total planned human resources for the Office of the Information Commissioner for the next three fiscal years. The numbers do not reflect the potential impact of announced budget cuts.

#### Human Resources (Full-time Equivalents, or FTEs)

2012–2013	2013–2014	2014–2015
106	106	106

#### Planning Summary Table

The following table displays the distribution of financial resources between the OIC's core program activity and internal services. In 2011–2012, the \$1,836K difference in forecast spending as compared to 2012–2013 is primarily due to funding received for payroll requirements of \$1,300K. Payroll requirements relate to the government's legal requirements as employer for items such as parental benefits and severance payments. In 2011–2012, following changes to collective agreements, members of some bargaining units could opt for immediate payout of their accumulated severance pay. The difference in forecast planning also results from a carry forward of \$235K, a collective agreement adjustment of \$2K, as well as 2012–2013 budget adjustments of \$31K to Employee Benefit Plans and \$268K for IM/IT renewal initiatives.

(\$ thousands)

Program Activity	Forecast Spending 2011–2012	Planned Spending			Alignment to Government of Canada Outcomes
		2012–2013	2013–2014	2014–2015	
Compliance with Access to Information Obligations	8,701	8,174	8,174	8,174	Government Affairs:  A transparent, accountable and responsive federal government
Internal Services	4,821	3,534	3,586	3,319	
Total Forecast	13,522				
<b>Total Planned Spending</b>		<b>11,708</b>	<b>11,760</b>	<b>11,493</b>	

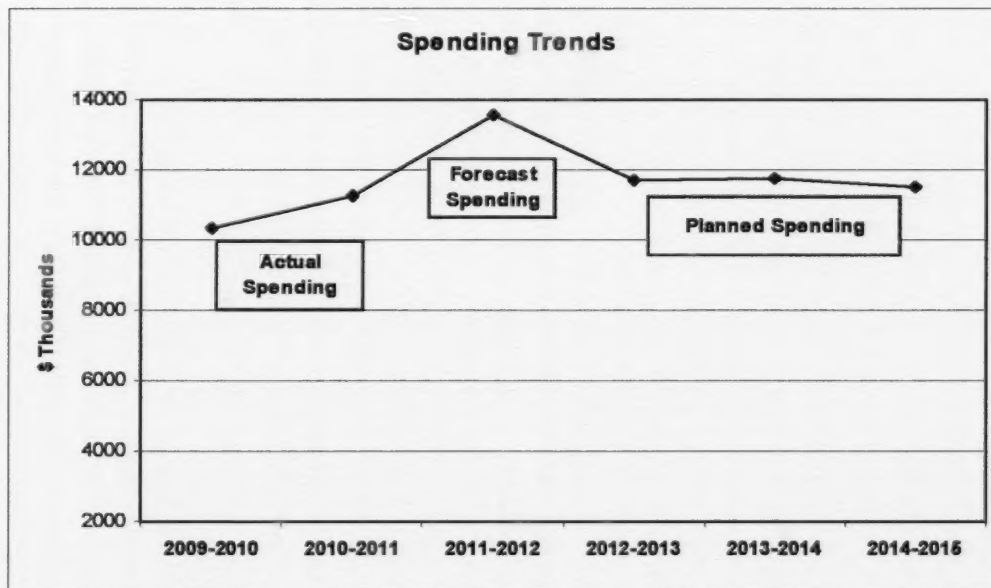
**Note:** Planned spending is composed of approved reference levels from the previous year's closed Annual Reference Level Update and adjustments to those reference levels, such as amounts received through Supplementary Estimates.

## Expenditure Profile

For the 2012–2013 fiscal year, the OIC plans to spend a total of \$11,708K to meet the expected results of its program activities and contribute to its long-term strategic outcome. The OIC is committed to ensuring that the financial resources will be used in the most strategic and responsible manner to continue to improve the efficiency of service delivery to Canadians as well as the impact of activities aimed at fostering a leading access to information regime.

Approximately 75 percent of the OIC's budget will be allocated to salaries and 25 percent for Operating and Maintenance (O&M) costs. Of the O&M budget, a third relates to fixed costs.

The following figure illustrates the Office's spending trend from 2009–2010 to 2014–2015. The trend shows that actual spending increased, due to staffing and to funding for IM/IT renewal initiatives. The increase in forecast spending reflects primarily payroll requirements associated with payouts of accumulated severance pay. We will need to review our planned expenditures in light of Budget 2012.



## Estimates by Vote

For information on organizational appropriations and/or statutory expenditures, please see the [2012–2013 Main Estimates publication](#).

## Section II: Analysis of Program Activities

### Strategic Outcome

All our program activities and efforts aim to achieve a single strategic outcome — to ensure that individuals' rights under the *Access to Information Act* are safeguarded. This section discusses our plans regarding both compliance with access to obligations and internal services for 2012–2013.

### Program Activity:

#### Compliance with Access to Information Obligations

The *Access to Information Act* is the legislative authority for the oversight activities of the Information Commissioner of Canada. We support the Commissioner's dual role as Ombudsperson and Agent of Parliament.

We investigate complaints on how federal institutions handle access to information requests and we review institutions' performance in complying with their obligations under the Act. We report results of investigations, reviews and recommendations to complainants, federal institutions and Parliament. Where required, we assist the Commissioner in bringing issues of enforcement or interpretation of the Act before the Federal Court.

We also assist the Commissioner in her advisory role to Parliament and parliamentary committees on all access to information matters. We conduct benchmarking and analysis to provide the Commissioner with the best possible information to support her advice and recommendations.

#### Financial Resources (\$ thousands)

2012–2013	2013–2014	2014–2015
8,174	8,174	8,174

#### Human Resources (Full-time Equivalents, or FTEs)

2012–2013	2013–2014	2014–2015
75	75	75

Expected Results	Performance Indicators	Targets
Canadians receive timely resolution of complaints about how federal institutions process access to information requests.	Percentage of (i) administrative cases and (ii) priority cases completed within set timelines	(i) <b>Administrative cases:</b> 85% closed in 90 days  (ii) <b>Priority cases:</b> 75% completed within 6 months (by 2014–2015)
Institutions meet their obligations under the <i>Access to Information Act</i> and adopt measures to address institutional and systemic issues affecting access to information.	Percentage of recommendations from (i) investigations of complaints and (ii) report cards and systemic investigations, that are adopted	(i) <b>Investigations of complaints:</b> 95% of recommendations are adopted  (ii) <b>Report cards and systemic investigations:</b> 80% of recommendations are adopted
Parliament receives timely, clear and relevant information and advice about the access implications of legislation, jurisprudence, regulations and policies.	Percentage of access-relevant parliamentary committee reports, transcripts and Hansards that refer to the OIC's perspectives and advice	85% of relevant parliamentary documents refer to OIC

## Planning Highlights

### Exemplary Service Delivery to Canadians

Since 2008, we have constantly monitored, assessed and adjusted our procedures and processes. Our overarching goal has been to continuously improve the effectiveness and timeliness of our investigations for the benefits of Canadians and Canadian democracy.

#### *Case management strategies*

The detailed knowledge of our caseload has enabled us to refine and increase case management strategies to generate more and faster results. For example, we group complaints by institution, type, subject matter or request, and work to resolve them simultaneously. In 2011–2012, we used this portfolio approach to address a large number of complaints that accounted for over 30 percent of the inventory and involved two institutions—Canada Revenue Agency (373 cases) and Canadian Broadcasting Corporation (261 cases). We intend to expand the use of the portfolio approach and refine it according to institutions' business lines, exemptions invoked and subject matters.

Building on successes and lessons learned, we are now focusing on our most complex and challenging cases. We have initiated a strategy to streamline the investigation of “special delegation” complaints, which involve national security, international affairs and defence issues. Eight of our most senior and experienced investigators handle these cases, in part using a portfolio approach for institutions generating the greatest number of complaints of this nature. Our intention is to minimize the number of contact points and administrative delays, ensure consistency, foster an open dialogue with institutions and promote the disclosure of information that does not injure the public interest.

At the end of 2011–2012, our inventory contained approximately 400 special delegation cases (about 20 percent of the total). Based on our performance to date, we expect to close approximately 150 cases in 2012–2013.

Following a similar approach, we will conduct and assess a pilot project to determine the feasibility of completing priority cases within six months. Priority cases deal with urgent issues such as threats to life, liberty or security of individuals, loss of economic rights or legal remedies, and possible destruction of records. Or they have a significant public impact and generate widespread public or parliamentary interest, for example cases dealing with public safety and national security, government accountability, precedent-setting cases or systemic issues.

Currently, we have approximately 118 cases that meet one of those criteria. Our goal is to complete 75 percent of priority cases within six months. We expect to achieve this target by 2014–2015 once active cases are closed and the process is well ironed out.

#### *Tools, systems, processes and standards*

The specificity of our work, a high number of new recruits as well as developments in access to information call for customized training on an ongoing basis and up-to-date investigative tools. Our current focus on refusal complaints adds a new dimension to our development efforts and provision of resources for investigators.

With the assistance of Legal Services, we have undertaken to update and tailor investigators’ manual, guidelines, work plans and templates to assist with the investigation and analysis of complex refusal cases. In 2012–2013, we will continue to provide training on the interpretation of specific provisions of the *Access to Information Act* and related jurisprudence, as required.

Our Information Technology team is proceeding with the integration of the investigative and legal case management systems. The consolidated system will facilitate tracking, analysis and reporting of litigation issues pertaining to complaints, investigations and access to information in

general. This work will also inform the development of standard processes to facilitate the coordination between the investigative and legal branches.

Following the audit of our Intake and Early Resolution Unit,<sup>14</sup> we established clear and realistic targets or benchmarks for the processing of administrative complaints, from registration to management approval. We will now develop and implement service standards for refusal investigations.

Finally, senior management will continue to actively foster and promote diligence, duty to assist and maximal disclosure of information in resolving even the most complex cases. They do so by maintaining an open dialogue with institutions, taking part in high-level meetings to discuss concerns, challenges and potential solutions, or in discussion forums to share OIC perspectives, requirements and expectations. Where appropriate, the Commissioner will also make use of the full range of her investigative powers, including the authority to conduct examinations under oath or to require the production of information.

\* \* \* \* \*

### **Timeliness of Responses to Access Requests**

In 2009–2010, we launched a three-year exercise to investigate the root causes of delays in access to information and document best practices.<sup>15</sup> Our objective was to offer Parliament, central agencies and individual institutions a thorough, fact-based diagnostic with specific and tailored solutions to guide improvements. The exercise also had the benefit of encouraging institutions to proactively comply with their obligations under the *Access to Information Act*.

The year 2012–2013 will conclude our three-year plan for report cards. We will table a detailed follow-up of the progress achieved by the 13 institutions that performed below average and the 5 institutions that were considered at risk of underperforming based on their 2008–2009 performance.

We will also follow up on the progress achieved by the Canadian Broadcasting Corporation and by Canada Post Corporation in implementing recommendations for improvement. The two institutions obtained failing grades for their handling of access to information requests in 2009–2010. They were part of a sample of institutions surveyed that came under the *Access to Information Act* as a result of the *Federal Accountability Act*.

Under our three-year plan, we initiated a systemic investigation into the causes and sources of delay in the processing of access to information requests. This investigation is looking into delays resulting from mandatory consultations as well as possible interference. We should conclude this investigation during 2012–2013.

Two years ago, we started monitoring extensions<sup>16</sup> taken for more than 30 days because the inappropriate use of time extensions often leads to delays in access to information. We used the compliance rate with the 9(2) notification process as an element of institutional rating in our report cards. In 2012–2013, in consultation with Treasury Board Secretariat as the administrator of the Act, we will refine our methodology for the use and reporting of extension notices filed with the Commissioner. Such reporting fosters institutions' self-discipline in providing timely responses to requesters.

\* \* \* \* \*

### **Expertise for a Modern Access to Information Regime**

In 2010, the Commissioner joined forces with other Information and Privacy Commissioners across Canada to issue a resolution calling on all levels of government to embrace open government principles for greater transparency.<sup>17</sup> In 2011, we hosted the International Conference of Information Commissioners<sup>18</sup> in collaboration with the Canadian Bar Association. In 2012, we will continue to leverage expertise and catalyze synergies to advance the modernization of access to information in Canada. Thirty years after the *Access to Information Act* was introduced, it is imperative to bring the regime into the digital age and up to par with the most progressive models.

In a number of reports and presentations to Parliament, we have already highlighted and documented various legislative gaps and deficiencies. For example, our 2009–2010 report cards exposed some of the difficulties associated with the legislative scheme that was put in place under the *Federal Accountability Act* (FedAA), notably institution-specific exemptions and exclusions.<sup>19</sup>

The dispute and resulting court actions involving the Canadian Broadcasting Corporation largely result from the FedAA-induced section 68.1 of the Act. The Commissioner appeared twice before the Standing Committee on Access to Information, Privacy and Ethics to explain the source of the dispute and proposed to the Committee an amendment providing for a discretionary, injury-based exemption.<sup>20</sup> In its March 2012 report, the Committee endorsed the Commissioner's view that the section should be reformed.

The right of access has also been eroded over time through statutory prohibitions to disclosure made under section 24 of the Act. This involves adding to Schedule II various provisions from other pieces of legislation. These provisions have significantly increased over the last 30 years. Schedule II should be reviewed to ensure that provisions represent appropriate and necessary exemptions to the access legislation.

Our March 2011 report on a case of political interference with the administration of the Act highlighted additional gaps in the legislation.<sup>21</sup> The Act limits the Commissioner's ability to disclose information about a possible criminal offence to the appropriate investigative body.

Moreover, the 2011 decision from the Supreme Court of Canada on the control of records within ministerial offices underlined the need for the legislation to clarify what constitute ministerial records as opposed to departmental records. It also needs to introduce a duty to document information so that there is an official record of important decisions made on behalf of Canadians.

As stated in previous reports, we have undertaken a comparative review of the *Access to Information Act* across selected jurisdictions. In the spirit of the dialogue component of open government, we will conduct online consultations with stakeholders to fully understand their expectations in meeting the challenge of modernizing the Act. We will hold discussions about reform options as part of the 2012 Right to Know Week. Following on the legacy of previous Information Commissioners, our objective is to present Parliament with value-added input on the necessary amendments to the Act.

In January 2012, Canada's Information and Privacy Commissioners once again joined forces to assist the government in developing its action plan for the international Open Government Partnership.<sup>22</sup> In an open letter to the President of the Treasury Board, the Commissioners made five substantive recommendations. These recommendations include modernizing the legislation, improving compliance with access to information obligations and optimizing the performance of access to information programs. In 2012–2013, we will continue to provide more input as Canada's Open Government participation continues.

Over the past two years, various parliamentary committees have solicited the Commissioner's input on a range of issues. As required, we will continue to assist the Commissioner in her advisory role to Parliament during 2012–2013.

## Program Activity: Internal Services

Internal services are groups of related activities and resources that are administered to support the needs of our program and other corporate obligations. These groups are: Management and Oversight Services; Communications Services; Human Resources Management Services; Financial Management Services; Information Management Services; Information Technology Services; Material Services; Acquisition Services; Travel and Other Administrative Services. Given the nature of our mandate, Legal Services contributes directly to our core Compliance program activity. In 2012–2013, we intend to start developing a performance measurement framework for internal services.

### Financial Resources (\$ thousands)

2012–2013	2013–2014	2014–2015
3,534	3,586	3,319

### Human Resources (Full-time Equivalents, or FTEs)

2012–2013	2013–2014	2014–2015
31	31	31

## Planning Highlights

### An Exceptional Workplace

The creation and maintenance of an exceptional workplace represents a key result area under our 2011–2014 Strategic Plan.<sup>23</sup> To better support this strategic objective, we undertook last year to develop a new integrated HR-business plan. The exercise was conducted earlier than anticipated given the successful completion of previously planned HR initiatives, changes in the operating environment and significant shifts within our workforce.

#### *Talent management*

Talent management is clearly our single most important requirement to fulfill business needs and foster employee satisfaction. It can be defined as the ongoing process of identifying, developing and effectively using individuals' talent, based on performance reviews, competency

assessments, learning objectives and career aspirations. Talent management typically includes development, recruitment and retention activities.

Last year, we researched how various federal organizations of different sizes manage their talent. Based on this information, we developed a talent management framework that takes into account budgetary considerations and business needs across the organization. The existing Investigator Training Program remains as a component of talent management.

In addition to objectives and eligibility, the framework outlines the program's structure and key requirements—e.g. career development plans, mapping of competencies, assignment opportunities and agreements, learning and performance objectives, follow-ups and evaluations. The range of development activities includes training, work assignments, job rotation, coaching and tutoring. Training consists of a combination of classroom, self-study, e-learning, observation, hands-on and other alternative training methods.

In 2012–2013, we will develop, communicate and implement our corporate talent management program with a view to meeting the following objectives:

- Present employees with an attractive career advancement vehicle that offers a structured mechanism for progression.
- Provide employees with opportunities to expand their knowledge base, acquire valued experience, learn and apply new skills as well as develop a range of essential core competencies.
- Present managers with a consistent, structured and transparent process for developing, evaluating and advancing employees.
- Provide a competitive advantage in the recruitment of high-potential employees and promote the organization as a workplace where people can excel.
- Create and maintain a sustainable, competent, productive and adaptable workforce.

As part of talent mapping, we will also identify individuals whose knowledge is critical to the organization and determine the best ways to transfer their knowledge. This effort will contribute to the development of a comprehensive knowledge management system, which we will initiate once our information management framework is fully in place.

#### ***Enabling infrastructure***

The tools, systems and processes making up the “enabling infrastructure” represent another important component of our work environment. Since 2009–2010, the continued upgrade and consolidation of our technology and information infrastructure has provided us with tools and systems to more effectively plan, manage and carry out our duties and functions.

In 2012–2013, our Communications Unit will continue to make maximum use of our intranet to facilitate internal communications, engage employees and provide information updates and easy access to important OIC documents. Workshops and tools will be offered to content providers to ensure full compliance with Web accessibility and usability standards.

With enhanced network security and bandwidth, we have progressively added various products and tools to our Web 2.0 platform. Last year, we developed and posted our User Guide for Social Media Accounts.<sup>24</sup> Our parliamentary and communications staff use social media to monitor important issues and quickly respond to questions from parliamentarians and journalists. Web 2.0 has potential benefits for other business needs, such as research, collaboration with institutions and optimization of service delivery. In 2012–2013, we will develop a strategy to guide and facilitate various Web activities and initiatives across the organization.

Our IM/IT unit is now taking on the challenge of transitioning us to a fully digital and wireless work environment. This transition, which is expected to generate additional flexibility and efficiency, will coincide with the relocation of our offices in 2013 to 30 Victoria, in Gatineau. We were informed last year that the lease for our Kent Street offices, in Ottawa, would not be renewed as the main building occupant requires and successfully claimed extra space to consolidate operations.

Our new location will allow us to remain as close as possible to the majority of our stakeholders and reporting authorities, who are concentrated mainly in downtown Ottawa. The building will also house other Agents of Parliament, which offers opportunities for collaboration and shared services arrangements.

However, as our recent operating review indicated, the Office does not have the capacity to fund this move through internal reallocation. The move is estimated at approximately three million dollars. Therefore, we have undertaken to identify a source of funds for the relocation, in consultation with the Treasury Board Secretariat.

#### *Values and ethics*

In all endeavours and interactions, institutions must be guided by a “strong values-based approach,” reflecting the enduring values of the public sector—respect for democracy, respect for people, integrity, stewardship and excellence. In 2010, OIC employees took the lead in defining our corporate values and value statements. We have integrated these values in our new organizational code of conduct, which builds on the 2012 Values and Ethics Code for the Public Sector and includes guidelines on conflict of interest and post-employment. In 2012–2013, we will conduct communications and recognition activities to present the new code to our staff and facilitate its operationalization.

***Public Service Employee Survey***

The Public Service Employee Survey enables managers and employees to improve people management and workplace conditions at all levels of their organization. Results from the 2011 survey at the OIC have highlighted some issues requiring attention. At a minimum, these call for improved and sustained internal communications. Following consultations with staff and management, we will develop and implement an action plan in 2012–2013 to address those issues and ensure that it is communicated to all employees.

\* \* \* \* \*

**Fiscal Responsibility and Responsible Stewardship**

Under fiscal restraint, public institutions limit spending to key priorities, decrease discretionary spending and focus resources with a view to increasing efficiencies. But as stewards of public resources, public institutions are also vested with the responsibility to protect capital and gains from previous investments while ensuring the sustainability of their program for the benefit of current and future generations.

In 2012–2013, a number of activities will enable us to balance both imperatives in the pursuit of our strategic objective. These activities deal with assurance on policy compliance and internal control, performance measurement and evaluation, as well as shared services initiatives. In these endeavours, we will be guided by the advice and feedback from our independent Audit Committee.

***Policy compliance***

To provide management with reasonable assurance on policy compliance, we need a good understanding of our business risks. This way, we can ensure that internal controls are balanced against and proportional to the risks they mitigate. Given ongoing developments, we will update our risk assessment next year and revise our audit plan accordingly.

We must also monitor and improve, as required, our key processes and controls. To do so, we have undertaken to document and assess processes and controls pertaining to financial management, security and human resources management.

With respect to financial reporting, we mandated an external firm to conduct a preliminary review of processes and controls regarding salary and operating expenditures, material management and end-of-period accounting. Only minor improvements were recommended, and they have been implemented.

A major thrust of our efforts over the past two years has been the establishment of a full-fledged security program in line with the 2009 Policy on Government Security. Given the nature of our mandate, full compliance is essential to mitigate any real or perceived risks pertaining to our handling of highly sensitive material obtained from other institutions. The program covers a wide range of activities, including: business continuity planning, emergency management, personnel security, physical security, contracting security, technology and information management security, security awareness and training.

To date, we have carried out a number of risk and compliance assessments and implemented various corrective measures. We are now working to finalize our corporate security policy framework and the development of related plans and procedures. We will also develop a security awareness training program and undertake staff training.

In 2012–2013, we will concentrate on operationalizing key control pertaining to human resources management. This effort will be guided by findings and recommendations from a staffing audit, which the Public Service Commission undertook at the end of 2011–2012.

#### *Performance measurement and evaluation*

In addition to efficient internal controls and assurance on policy compliance, performance measurement is key to ensuring long-term and enduring benefits to Canadians. It serves to monitor and assess progress towards established goals and informs decision making, notably on resource allocations. It supports trend analysis and enables credible and meaningful reporting.

Detailed and robust, our case management system for investigations already allows us to track and analyze our performance across units and categories of complaints, over time and against targets. We are now working to enhance the system's tracking and reporting capabilities by integrating legal case information.

In 2012–2013, in accordance with recent revisions to the Policy on Management, Resources and Results Structures, we will refine the performance framework used for our reports to Parliament.

To support evidence-based decision making, we will develop and introduce an evaluation function by the March 31, 2013 deadline set by the Treasury Board Policy on Evaluation. The new function will help improve the design, delivery, performance and performance measurement of the organization's policies and program. Given limited resources and the scope of our program, evaluation and audit activities will be planned and implemented as part of a single, integrated risk-based framework. This integration will maximize the value of the two functions, by treating them as mutually supportive risk management and performance improvement areas of activities.

***Shared services delivery***

To achieve greater efficiencies and minimize risks, we are committed to leveraging existing or potential shared services options, where feasible. We have undertaken discussions to establish a memorandum of understanding with the Shared Services Unit of Public Works and Government Services Canada for the provision of human resources services.

Our planned relocation with other Agents of Parliament presents additional opportunities to achieve efficiencies by sharing common administrative services. We will continue to implement standard business processes consistent with those of other federal institutions. This standardization will facilitate potential transitions to shared services arrangements.

## Section III: Supplementary Information

### Financial Highlights

**Future-Oriented  
Condensed Statement of Operations**  
For the Year (ended March 31)  
(\$ thousands)

	<b>\$ Change</b>	<b>Future-Oriented 2012–2013</b>	<b>Future-Oriented 2011–2012</b>
Total Expenses	(1,640)	13,272	14,912
Total Revenues	0	0	0
<b>Net Cost of Operations</b>	<b>(1,640)</b>	<b>13,272</b>	<b>14,912</b>

	<b>\$ Change</b>	<b>Future-Oriented 2012–2013</b>	<b>Future-Oriented 2011–2012</b>
Total Assets	(176)	1,690	1,866
Total Liabilities	(481)	1,978	2,459
Equity	305	(288)	(593)
<b>Total</b>	<b>(176)</b>	<b>1,690</b>	<b>1,866</b>

### Future-Oriented Financial Statements

The detailed [future-oriented financial statements](#) can be found in the About Us/Corporate Information section of the Office of the Information Commissioner's website.

## List of Supplementary Information Tables

Supplementary information on our Greening Operations can be found on the [Treasury Board of Canada Secretariat website](#).

## Section IV: Other Items of Interest

### Organizational Contact Information

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25.	Privacy Act Reform: Issue Identification and Review, Office of the Privacy Commissioner of Canada, June 16, 2000 [privacy]
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## Endnotes

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- <sup>3</sup> Right to Know website, <http://www.righttoknow.ca/en/Content/default.asp>
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